



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

#### **Requestor Name and Address**

KYLE E JONES MD  
1025 DESHONG DR  
PARIS TX 75460

#### **Carrier's Austin Representative Box**

#19

#### **Respondent Name**

AMERICAN ZURICH INSURANCE CO

#### **MFDR Date Received**

FEBRUARY 13, 2012

#### **MFDR Tracking Number**

M4-12-2040-01

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "Carrier denied (timely filing)-reconsideration was made with proof of timely filing"

**Amount in Dispute:** \$693.52

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "Carrier has disputed that reimbursement is owed for these services as the bill was not submitted in a timely manner by Requestor. Texas Labor Code section 408.027 (a) and 28 TAC 133.20 (b) require that a health care provider submit its bill to the carrier no later than the 95<sup>th</sup> day after the date of service and that the carrier is not liable for bills presented after that period, unless certain exceptions set out in Labor Code Section 408.0272 apply. None of those exceptions are applicable to this case. Carrier received the initial bill for these services on October 6, 2011, more than 95 days after each service date. Requestor has failed to submit adequate proof of any earlier billing date. Carrier maintains that reimbursement is not owed on these service date."

**Response Submitted by:** Flahive, Ogden & Latson, P. O. Box 201320, Austin, Texas 78720

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
March 28, 2011	CPT Code 99203	\$143.68	\$143.68
March 28, 2011 March 31, 2011 April 14, 2011 May 25, 2011	CPT Code 99080-73	\$15.00 \$15.00 \$15.00 \$15.00	\$15.00 \$15.00 \$15.00 \$15.00
March 31, 2011	CPT Code 99371-W1	\$18.00	\$18.00
April 14, 2011 May 25, 2011	CPT Code 99213	\$95.92 \$95.92	\$95.92 \$95.92

TOTAL		\$413.52	\$413.52
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## ***FINDINGS AND DECISION***

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

### **Background**

1. 28 Texas Administrative Code §133.305 and §133.307, 33 *Texas Register* 3954, applicable to requests filed on or after May 25, 2008, sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.20 sets out the procedures for health care providers to submit workers' compensation medical bills for reimbursement.
3. 28 Texas Administrative Code §102.4 sets out the rules for Non-Commission Communications.
4. Texas Labor Code §408.027 sets out the rules for timely submission of a claim by a health care provider.
5. Texas Labor Code §408.0272 sets out the rules for certain exceptions for untimely submission of a claim by a health care provider.
6. 28 Texas Administrative Code §134.203 sets out the guidelines for reimbursement of professional medical services provided on or after March 1, 2008.
7. 28 Texas Administrative Code §134.204 sets out fee guidelines for the reimbursement of workers' compensation specific codes, services and programs provided on or after March 1, 2008.
8. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated December 19, 2011

- 200 – PER 134.801, A MEDICAL BILL SHALL NOT BE SUBMITTED LATER THAN THE 1<sup>ST</sup> DAY OF THE 11<sup>TH</sup> MONTH (<08/31/05) OR 95 DAYS (>09/01/05) AFTER DOS.
- 29 – THE TIME LIMIT FOR FILING HAS EXPIRED.

Explanation of benefits dated January 25, 2012

- 200 – PER 134.801, A MEDICAL BILL SHALL NOT BE SUBMITTED LATER THAN THE 1<sup>ST</sup> DAY OF THE 11<sup>TH</sup> MONTH (<08/31/05) OR 95 DAYS (>09/01/05) AFTER DOS.
- 29 – THE TIME LIMIT FOR FILING HAS EXPIRED.

### **Issues**

1. Did any of the exceptions listed in Texas Labor Code §408.0272 apply to the medical services in dispute?
2. Did the requestor submit documentation to support the disputed bills were submitted timely in accordance with Texas Labor Code, Section §408.027 and 28 Texas Administrative Code §102.4?
3. Is the requestor entitled to reimbursement?

### **Findings**

1. 28 Texas Administrative Code §133.20(b) states, in pertinent part, that, except as provided in Texas Labor Code §408.0272, "a health care provider shall not submit a medical bill later than the 95<sup>th</sup> day after the date the services are provided." No documentation was found to support that any of the exceptions described in Texas Labor Code §408.0272 apply to the services in this dispute. For that reason, the requestor in this dispute was required to submit the medical bill not later than 95 days after the date the disputed services were provided.
2. Texas Labor Code §408.027(a) states, in pertinent part, that "Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment." 28 Texas Administrative Code §102.4(h) states that "Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on: (1) the date received, if sent by fax, personal delivery, or electronic transmission or, (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday."
  - Review of the submitted information finds documentation to support that a medical bills were submitted within 95 days from the dates the services were provided. Requestor submitted P2P confirmation documents indicating the bills were sent on April 6, 2011 and April 29, 2011 respectively.

- Therefore, pursuant to Texas Labor Code §408.027(a), the requestor in this medical fee dispute is due reimbursement for the services in dispute.
3. In accordance with 28 Texas Administrative Code, Section §134.203(c)(1) reimbursement is recommended as follows:

CPT Code 99203: \$54.54 WC CF/33.9764 Medicare CF x \$99.80 Participating Amount = \$160.20. Per the requestor's *Table of Disputed Services*, the amount in dispute is \$143.68, therefore, this amount is recommended.

CPT Code 99213: \$54.54 WC CF/33.9764 Medicare CF x \$66.90 Participating Amount = \$107.40. Per the requestor's *Table of Disputed Services*, the amount in dispute is \$95.92 x 2 DOS = \$191.84, therefore, this amount is recommended.

In accordance with 28 Texas Administrative Code, Section §129.5(i) reimbursement is recommended as follows:

CPT Code 99080-73: \$15.00 x 4 DOS = \$60.00

In accordance with 28 Texas Administrative Code, Section §134.204(e)(4)(C)(i), reimbursement is recommended as follows:

CPT Code 99371-W1: \$18.00

Total Allowable: \$413.52

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has established that reimbursement is due. As a result, the amount ordered is \$413.52.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$413.52 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

### **Authorized Signature**

_____	_____	January 28, 2013
Signature	Medical Fee Dispute Resolution Officer	Date

### ***YOUR RIGHT TO REQUEST AN APPEAL***

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a *certificate of service* demonstrating that the request has been sent to the other party.**

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**